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RHEBAAA/DEPT OF ENERGY WASHINGTON DC
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RUEAIIA/CIA WASHINGTON DC
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C O N F I D E N T I A L ABUJA 000629

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DOE FOR CAROLYN GAY

E.O. 12958: DECL: 03/29/2017
TAGS: [PGOV](#) [PREL](#) [KDEM](#) [NI](#) [ELECTIONS](#)
SUBJECT: COULD CANDIDATE'S DEATH DELAY ELECTIONS?

REF: ABUJA 492

Classified By: Political Counselor Russell J. Hanks for reasons 1.4. (b
& d).

11. (C) The March 29 death of Alliance for Democracy (AD) presidential candidate Chief Adebayo Adefarati raised serious legal and constitutional questions relating to the timing of the April 21 presidential elections. INEC's Director of Public Affairs made statements on March 29 that the death would not delay the April 21 elections. This runs contrary, however, to INEC Chairman Iwu's statement on March 8 to Chiefs of Mission (Ref. A) indicating that the Electoral Act requires a delay in the event of a candidate's death. AD leaders are meeting in Abuja on March 30 to decide whether to adopt a replacement candidate.

12. (SBU) Section 37 of the Nigerian Electoral Law says that "if after the time for the delivery of nomination papers and before the commencement of the poll, a nominated candidate dies, the Chief National Electoral Commissioner or the Resident Electoral Commissioner shall, being satisfied of the fact of the death, countermand the poll in which the deceased candidate was to participate and the Commission shall appoint some other convenient date for the elections." Article 132(2) of the Constitution, however, requires that the elections be held no later than 30 days prior to the expiration of the term of office -- April 29 for a May 29 end to Obasanjo's term.

13. (C) COMMENT. It is not clear, as of March 30, whether the AD will put forward a replacement candidate. Nor is it clear whether INEC Chairman Iwu will follow the letter of the Electoral Law in delaying the presidential elections. A decision to extend the elections beyond April 29 would likely be met by court cases challenging the constitutionality of the relevant section of the Electoral Law. If a decision is made to delay the elections, we may be left with a situation where the only constitutional, democratic alternative is an interim government run by Senate President Ken Nnamani, at least for the two weeks remaining in his term. END COMMENT.
CAMPBELL